



## Press Clipping Article

**Title:** Tobacco flat tax bad deal for state

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A group of tobacco companies is asking the legislature to go prospecting for new revenue with a new tax assessment, but all that's out there is fool's gold.

### Article:

A group of tobacco companies is asking the legislature to go prospecting for new revenue with a new tax assessment, but all that's out there is fool's gold.

They want the state to impose a "flat tax" on cigarettes to replace the Master Settlement Agreement (MSA) signed in 1998. Supporters of the flat tax argue that it is fair, reasonable and presents no risk.

In fact, it's anything but.

The proposal would breach the MSA contract, and doing so is unconstitutional. It would also embroil Kentucky in years of litigation with the manufacturers who are parties to the MSA.

It could even invite litigation from other states --some of which already have recognized the folly in this ploy. In fact, similar initiatives have already come up in 10 states, failing in all 10.

Imposing this tax puts Kentucky at risk of losing the \$113 million in annual payments it now receives. What's more troubling, MSA manufacturers will most likely pursue a court order to instruct Kentucky to refund the more than \$700 million already received. This outcome would be a fiscal disaster.

Under the MSA, Kentucky agreed with some 50 tobacco manufacturers that it would receive hundreds of millions of dollars every year, forever. Kentucky has used that money to support farmers, to pay for programs focusing on early childhood development, education, cancer research and public health, including smoking cessation.

In fact, the commonwealth is even paying debt service on some loans with MSA funds because the money is guaranteed.

Why would the legislature ever jeopardize this substantial recurring revenue stream?

So, who are these tobacco manufacturers pushing to "replace" the MSA, and asking Kentucky to tax them?

They hide under the banner of "CITMA," a trade association that claims to represent independent tobacco manufacturers. But in reality, they represent manufacturers that chose not to join the MSA. They include many importers who typically don't buy Kentucky burley. They have enjoyed a price advantage over the MSA companies for years because, among other things, they have been able to use a loophole that was recently closed.

Now that the playing field has been leveled, CITMA is desperately trying to secure a new advantage with a flat tax. If successful, they would reap two huge payoffs.

First, they would avoid a \$30 million escrow payment now required as a result of the MSA loophole being closed.

Second, they would maintain a price advantage. They would pay about \$4 a carton on their Kentucky sales, while the MSA manufacturers -- who account for 90 percent of the cigarettes sold in the state -- would pay twice that amount per carton.

That isn't fair by any stretch of the imagination. Is it any wonder that the MSA manufacturers are threatening litigation if the flat tax passes?

But the companies pushing this initiative have a clever story to back it up. They say that Kentucky got a bad deal in the MSA. They claim Kentucky is paying New York a lot of money that it shouldn't have to pay.

That is grossly misleading.

Yes, Kentucky gets less under the MSA than New York and some other states. But that was a deal that Kentucky made, and the states carefully negotiated based on the amount each state paid for expenses attributable to smoking-related illnesses.

The federal Centers for Disease Control reported that in 1998, when this deal was negotiated, Kentucky spent about \$350 million of Medicaid expenditures on smoking-related illnesses, while New York spent more than 11 times as much, or \$4.27 billion. That's what accounts for the disparity -- not an inequity to Kentucky taxpayers.

Don't buy the story that this proposal isn't an additional tax. The manufacturers of 90 percent of the cigarettes sold in Kentucky will be required to pay \$4 per carton under this proposal. And the proponents of the law admit that prices to consumers likely will go up if it is passed.

If Kentucky wants to raise more money on tobacco, there are fair ways to do it without opening a Pandora's Box. The flat-tax proposal is bad for consumers and bad for the commonwealth. It should be resoundingly defeated. The only thing to be panned out of this revenue stream is fool's gold -- period.

Spencer Coates is chairman of Commonwealth Brands, based in Bowling Green.

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